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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.687 OF 2007

M/s.Ascent Networks Pvt.Ltd. Petitioner
versus
M/s.Shakti Vital Links Pvt.Ltd. Respondent

M.G.Mimani for petitioner.

None for respondent.

CORAM : A.M.KHANWILKAR, J.
DATE : 28th November 2007
PC :

1. None appears for the respondent though served. No reply has been filed to contest this petition. The petitioner's claim is based on goods sold, delivered and supplied to the respondent as per their demand from time to time. According to the petitioner the value of the goods supplied was Rs.2,01,093/-. Out of the said amount, only part payment has been received by the petitioner. Initially part payment of Rs.50,000/- was received and later on after notice dated 11th November 2006 further part payment of Rs.25,000/- was received by cheque on 19th December 2006. After providing adjustment

for amounts received from respondent, the respondent is still liable to pay a sum of Rs.1,76,093/-. The petitioner is claiming that amount along with interest from the respondent. In spite of two legal notices sent by the petitioner and lastly the statutory notice of 29th May 2007 which has been duly served on the respondent, the respondent has not bothered to pay any further amount out of the outstanding dues nor have offered any explanation. As a result, the petitioner has been driven to file present petition. The present petition has been duly served on the respondent. As mentioned earlier, the respondent has not bothered to appear before this Court nor has filed any affidavit offering any explanation. In the circumstances, it is more than clear that the respondent is liable to pay the amount as claimed by the petitioner, atleast the principal amount of Rs.1,76,093/-. From the circumstances borne by record, it necessarily follows that the respondent is unable to pay the dues.

2. In the circumstances, I proceed to pass conditional order to give one more opportunity to the respondent in the following terms.

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3. ORDER :-

a) The respondent shall deposit a sum of Rs.1,75,000/- (Rs.One lakh seventy five thousand only) in this Court within eight weeks from today which amount, if deposited, be invested in a fixed deposit scheme in a nationalised bank to enure till the disposal of the petition or till further orders to be passed by this Court;

b) In the event the respondent fails to deposit the amount as aforesaid within the specified time, this petition shall stand admitted. The petitioner would then be free to advertise admission of the present petition without further reference to the Court;

c) In the event the the petitioner is required to advertise admission of the present petition as aforesaid, shall publish the advertisement in two local newspapers, namely, "Free Press Journal", "Navshakti" and in the Maharashtra Government Gazette. For that purpose, the petitioner shall deposit an amount of Rs.10,000/- (Rs.Ten Thousand only) with the Registrar (O.S.)/ Prothonotary & Senior Master towards the publication charges within three weeks from expiry of eight weeks

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period, failing which the petition shall stand dismissed for non prosecution without further reference to the Court.

d) The petitioner shall intimate the respondent about the directions issued under this order forthwith.

(A.M.KHANWILKAR, J.)